

(ii) The surviving spouse of the individual,

(iii) The surviving child or children of the individual, in equal shares,

(iv) The surviving parent or parents of the individual in equal shares.

(2) If none of the persons listed in this paragraph is living, VA shall not pay a death benefit under this section.

(Authority: 38 U.S.C. 1417(a)(2); Pub. L. 100-689) (Jul. 1, 1985)

(d) *Amount of death benefit.* (1) The amount of any payment made under this section shall be equal to—

(i) The amount reduced from the individual's basic pay as provided in § 21.7042(f) less—

(ii) The total of—

(A) The amount of educational assistance that has been paid to the individual under 38 U.S.C. ch. 30, and

(B) The amount of accrued benefits paid or payable with respect to the individual.

(2) VA shall pay no death benefit when the amount determined by subparagraph (1) of this paragraph is zero or less than zero.

(Authority: 38 U.S.C. 1417 (b) and (c); Pub. L. 100-689) (Jul. 1, 1985)

[FR Doc. 91-10035 Filed 5-1-91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3924-9]

Approval and Promulgation of Implementation Plans States of Arkansas, Louisiana, and New Mexico; Revisions to the States' Prevention of Significant Deterioration Rules for Nitrogen Dioxide Increment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This Federal Register notice approves several revisions to the State Implementation Plans (SIP) submitted by the States of Arkansas, Louisiana, and New Mexico for incorporating the nitrogen dioxide (NO₂) increment standards. These revisions are in response to the requirements of the Prevention of Significant Deterioration (PSD) rules for NO₂ increment standards that were promulgated by the EPA in the Federal Register notice of October 17, 1988 (53 FR 40656).

Today's notice is published to advise the public that EPA is approving the Arkansas, Louisiana, and New Mexico

SIP revisions for the PSD nitrogen dioxide increment standards. The rationale for this approval is contained in this notice.

DATES: This action will be effective on July 1, 1991, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the States' submittals and other information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

For all three States: Planning Section, Air Programs Branch, Air, Pesticides, and Toxics Division, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 655-7214.

For Arkansas: Division of Air Pollution Control, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, telephone: (501) 562-7444.

For Louisiana: Air Quality Division, Louisiana Department of Environmental Quality, 625 North 4th Avenue, Baton Rouge, Louisiana 70804, telephone: (504) 342-1206.

For New Mexico: Air Quality Bureau, New Mexico Environmental Improvement Division, 1190 St. Francis Drive, Santa Fe, New Mexico 87503, Telephone: (505) 827-0042.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Behnam, P.E.; Planning Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 655-7214.

SUPPLEMENTARY INFORMATION:

Background

The EPA promulgated the nitrogen dioxide increments in the **Federal Register** notice of October 17, 1988. The increment standards were promulgated for class I, II, and III as 2.5, 25.0 and 50.0 µg/m³ (based on annual averaging time), respectively. The PSD increments for nitrogen dioxide were developed pursuant to the provision of section 166 of the Act. Specifically, this section requires the adoption of PSD regulations for nitrogen oxides [as well as for other pollutants] to provide "numerical measures against which permit applications may be evaluated, a

framework for stimulating improved control technology, [and] protection of air quality values." Further, section 166 requires that the regulation include "specific measures at least as effective as" the existing increments established by Congress in section 163 of the Act for particulate matter and sulfur dioxide in meeting the goals and purposes of the PSD program.

The section 166 regulations for nitrogen oxides promulgated are based on an ambient increment requirement for nitrogen dioxide as the numerical measure of significant deterioration in air quality. The nitrogen dioxide increments follow the pattern enacted by Congress for the particulate matter and sulfur dioxide increments. These increments establish maximum increases in ambient air concentrations of nitrogen dioxide (expressed in micrograms per cubic meter (µg/m³)) allowed in a PSD area over a baseline concentration. These increments are applicable to both stationary and mobile sources, and are implemented through a series of permit review requirements that are already in place for major new stationary sources or major modifications, as defined in 40 CFR parts 51 and 52. The States are required to adopt these rules and submit a SIP revision to the EPA for approval.

Evaluation of States Submissions

The PSD NO₂ SIP submittals for states of Arkansas, Louisiana, and New Mexico are discussed individually and have been reviewed for their adequacy and consistency with the requirements of Federal regulations (40 CFR 51, § 51.166).

Arkansas

The State of Arkansas has an existing approved SIP for implementing and enforcing the PSD program in the State (except for Indian lands). The EPA initially approved the State PSD SIP on February 16, 1982. The Arkansas Department of Air Pollution Control and Ecology (the agency responsible for air quality planning and control) adopted the Federal PSD regulations (40 CFR 52.21) by incorporation by reference. The last PSD SIP revision (54 FR 18494) contained the provisions for particulate matter (PM₁₀).

The State has revised its PSD SIP to incorporate the requirements and revisions which were promulgated by the EPA on October 17, 1988, for the PSD NO₂ increment standards. The Arkansas Department of Air Pollution Control and Ecology has effectuated the Federal NO₂ increment standards in its SIP by adopting the Federal regulations (40 CFR

52.21), as in effect on June 28, 1989, by reference. By revising the PSD SIP adoption date, the State will have authority to implement and enforce all of the Federal PSD rules, including the PSD NO₂ increments, in the State as in effect through June 28, 1989.

The Arkansas Commission on Pollution Control and Ecology adopted the PSD NO₂ SIP revision on May 25, 1990, and the Governor submitted this revision to the EPA on June 19, 1990. The State has conducted appropriate public participation in accordance with the requirements of 40 CFR 51.102, and received no comment from the public. Based on evaluation of the documents submitted by the Governor, EPA has determined that the State of Arkansas has appropriately incorporated the PSD NO₂ rules into the State regulations and has authority to implement the PSD program as well as issuance and enforcement of the PSD permits in Arkansas.

Louisiana

The State of Louisiana has an existing approved SIP for implementing and enforcing the PSD program in the State (except for Indian lands). The EPA initially approved the State PSD SIP on April 24, 1987. This approval was based on review of a set of State generated regulations (LAC 33:Part III, Chapter 5, Permit Procedures; § 509, Prevention of Significant Deterioration) which EPA determined to be equivalent to the Federal PSD regulations in 40 CFR 52.21 and consistent with the requirements of 40 CFR 51.166. The last PSD SIP revision (54 FR 25449) contained the provisions for particulate matter (PM₁₀).

In response to the requirements of the PSD NO₂ increment rules (53 FR 40656), the State has revised the affected sections of its PSD SIP to incorporate the provisions of the NO₂ increments promulgated by the EPA on October 17, 1988. The affected sections of the State regulations (Federal regulations are given in the bracket for reference) are: Section 509(B) (Baseline Area) (40 CFR 51.166(b)(15)(i)), section 509(B)(Baseline Concentration) (40 CFR 51.166(b)(13)), section 509(B)(Baseline Date) (40 CFR 51.166(b)(14)), section 509(B)(Net Emission Increases) (40 CFR 51.166(b)(3)(iv)), section 509(B) (Ambient Air Increment) (40 CFR 51.166(c)), and section 509(P)(4) (40 CFR 51.166(p)(4)). The State has revised these sections to incorporate the requirements of Federal PSD NO₂ provisions into the State regulations.

The Secretary of Louisiana Department of Environmental Quality (LDEQ) amended and approved the foregoing revisions to LAC 33.III. 509 on

July 20, 1990. The Governor of Louisiana submitted this SIP revision to the EPA on October 26, 1990, for approval. The State has conducted appropriate public participation in accordance with the requirements of 40 CFR 52.102, and the LDEQ received two oral and no written comments. The comments were non-controversial and the LDEQ responded to these adequately. Based on the documents submitted by the Governor and review of the State regulations, EPA has determined that the State of Louisiana has appropriately revised the State PSD regulations for incorporating the Federal NO₂ increment provisions.

New Mexico

The State of New Mexico has an existing approved SIP for implementing and enforcing the PSD program in the State (except for Bernalillo County and Indian lands). The EPA initially approved the New Mexico PSD SIP on February 27, 1987. This approval was based on review of a set of State generated regulations (New Mexico Air Quality Control Regulation (AQCR) 707—Permits, Prevention of Significant Deterioration (PSD)) which EPA determined to be equivalent to the Federal PSD regulations in 40 CFR 52.21 and consistent with the requirements of 40 CFR 51.166. The last PSD SIP revision (55 FR 34013) contained the provisions for particulate matter (PM₁₀).

In response to the requirements of the PSD NO₂ increment rules (53 FR 40656), the State has revised the affected sections of its PSD regulations to incorporate the provisions of the NO₂ increments promulgated by the EPA on October 17, 1988. The affected sections of the State regulations (Federal regulations are given in the bracket for reference) are: AQCR 707(O)(4)(5) and Table 5 (40 CFR 51.166(p)(4)), AQCR 707(P)(8)(40 CFR 51.166(b)(15)(i)), AQCR 707(P)(8)(40 CFR 51.166(b)(13)), AQCR 707(P)(25)(40 CFR 51.166(b)(14)), AQCR 707(P)(28)(40 CFR 51.166(b)(14)), AQCR 707(P)(31)(40 CFR 51.166(b)(3)(iv)), AQCR 707 Table 4, Allowable PSD Increment (40 CFR 51.166(c)), AQCR 707(P)(21)(40 CFR 51.166(b)(28)), and AQCR 707(P)(26)(e)(40 CFR 51.166(b)(1)(iii)). The last two sections listed above were revised to clarify and enhance the State regulations, and they are not subject to the PSD NO₂ requirements, however, they are consistent with 40 CFR 51.166.

The New Mexico Environmental Improvement Board adopted the revisions cited in this notice on March 9, 1990. The PSD regulation was filed with the State Records Center on May 29, 1990, and became effective on June 28, 1990. The Governor of New Mexico submitted this SIP revision to the EPA

on July 16, 1990, for approval. The State has conducted appropriate public participation in accordance with the requirements of 40 CFR 51.102, and the State received two public comments. Based on the documents submitted by the Governor and review of the State regulations, EPA has determined that the State of New Mexico has appropriately revised and adopted the State PSD regulations for incorporating the Federal NO₂ increment provisions.

Final Action

The EPA has reviewed the PSD NO₂ SIP revision submittals from the States of Arkansas, Louisiana, and New Mexico, and determined that these States have adequately revised their existing PSD SIPs to incorporate the provisions of the NO₂ increments promulgated by the EPA on October 17, 1988 (53 FR 40656). The revised State regulations are: (1) Prevention of Significant Deterioration Supplement—Arkansas Plan of Implementation for Air Pollution Control for the State of Arkansas; (2) LAC 33: Part III, Chapter 5, Permit Procedures section 509, Prevention of Significant Deterioration for the State of Louisiana; and (3) New Mexico AQCR 707—Permits, Prevention of Significant Deterioration for the State of New Mexico. In addition, each State has conducted appropriate public participation in accordance with the requirements of 40 CFR 51.102. Therefore, the EPA is approving the revised States' PSD regulations as cited above for the States of Arkansas, Louisiana, and New Mexico. The actions approved in this notice are applicable to the entire States of Arkansas and Louisiana outside the boundaries of Indian lands. In the State of New Mexico, the approved action is applicable to the entire State outside the boundaries of Indian lands and Bernalillo County. At present, Bernalillo County does not have an approved PSD SIP and the Federal implementation plan is applicable in this area. The applications and inquiries concerning permits and PSD program, outside of Indian lands and Bernalillo County (New Mexico), should be directed to each State at the addresses listed earlier in this notice. The application and questions concerning Indian lands and Bernalillo County (New Mexico) should be directly addressed to the EPA Region 6 Air Programs Branch at the address given in this notice.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective

60 days from the date of publication unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on July 1, 1991.

The EPA has reviewed these requests for revision of the federally approved State Implementation Plans for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirement.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989, (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 until April 1991.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 1991. Filing a petition for reconsideration by the Administrator for this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on substantial number of small entities (See 46 FR 8709).

Incorporation by reference of the Arkansas, Louisiana, and New Mexico Implementation Plans were approved by the Director of the Federal Register on July 1, 1982.

This rulemaking is issued under the authority of section 110 of the Clean Air Act, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air Pollution Control, Nitrogen Oxides, and Nitrogen Dioxide.

Dated: April 12, 1991.

Joe D. Winkle,

Acting Regional Administrator.

PART 52—[AMENDED]

Title 40 part 52 of the code of Federal Regulations is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: U.S.C. 7401-7642.

Subpart E—Arkansas

2. Section 52.170 is amended by adding paragraph (c)(28) to read as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(28) Revisions to the Arkansas State Implementation Plan for Prevention of Significant Deterioration (PSD) of Air Quality Supplement Arkansas Plan of Implementation for Air Pollution Control (PSD nitrogen dioxide increments), as adopted on May 25, 1990, by the Arkansas Commission on Pollution Control and Ecology, were submitted by the Governor on June 19, 1990.

(i) Incorporation by reference.

(A) Prevention of Significant Deterioration Supplement Arkansas Plan of Implementation For Air Pollution Control as amended on May 25, 1990.

(ii) Additional Material—None.

3. Section 52.181 is revised to read as follows:

§ 52.181 Significant deterioration of air quality.

(a) The plan submitted by the Governor of Arkansas on April 23, 1981 [as adopted by the Arkansas Commission on Pollution Control and Ecology (ACPCE) on April 10, 1981], June 3, 1988 (as revised and adopted by the ACPCE on March 25, 1988), and June 19, 1990 (as revised and adopted by the ACPCE on May 25, 1990), Prevention of Significant Deterioration (PSD) Supplement Arkansas Plan of Implementation For Air Pollution Control, is approved as meeting the requirements of Part C, Clean Air Act for preventing significant deterioration of air quality.

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for Federally designed Indian lands. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated by

reference and made a part of the applicable implementation plan and are applicable to sources located on land under the control of Indian governing bodies.

Subpart T—Louisiana

4. Section 52.970 is amended by adding paragraph (c)(57) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(57) Revisions to the Louisiana State Implementation Plan for LAC:33:III: Section 509 Prevention of Significant Deterioration (PSD) sections (509)(B) (Baseline Area) (1), 509(B) (Baseline Area) (2), 509(B) (Baseline Concentration) (1), (509)(B) (Baseline Concentration) (1)(b), 509(B) (Baseline Concentration) (2)(a), 509(B) (Baseline Concentration) (2)(b), 509(B) (Baseline Date) (1)(a), 509(B) (Baseline Date) (1)(b), 509(B) (Baseline Date) (2), 509(B) (Baseline Date) (2)(a), 509(B) (Baseline Date) (2)(b), 509(B) (Net Emission Increases) (4), 509(D), and 509(P)(4), as adopted by the Secretary of Louisiana Department of Environmental Quality (LDEQ) on July 20, 1990, were submitted by the Governor on October 26, 1990.

(i) Incorporation by reference.

(A) LAC:33:III: Section 509 Prevention of Significant Deterioration Sections (509)(B) (Baseline Area) (1), 509(B) (Baseline Area) (2), 509(B) (Baseline Concentration) (1)(a), (509)(B) (Baseline Concentration) (1)(b), 509(B) (Baseline Concentration) (2)(a), 509(B) (Baseline Concentration) (2)(b), 509(B) (Baseline Date) (1)(a), 509(B) (Baseline Date) (1)(b), 509(B) (Baseline Date) (2), 509(B) (Baseline Date) (2)(a), 509(B) (Baseline Date) (2)(b), 509(B) (Net Emission Increase) (4), 509(D), and 509(P)(4) as amended on July 20, 1990.

(ii) Additional Material—None.

5. Section 52.986 is revised to read as follows:

§ 52.986 Significant deterioration of air quality.

(a) The plan submitted by the Governor of Louisiana on August 14, 1984 (as adopted by the Secretary of Louisiana Department of Environmental Quality (LDEQ) on May 23, 1985), July 26, 1988 (as revised and adopted by the LDEQ on May 5, 1988), and October 26, 1990 (as revised and adopted by the LDEQ on July 20, 1990), LAC:33:III: § 509 Prevention of Significant Deterioration (PSD) and its Supplement documents, is approved as meeting the requirements of Part C, Clean Air Act for preventing significant deterioration of air quality.

(b) The requirements of Section 160 through 165 of the Clean Air Act are not met for Federally designated Indian lands since the plan (specifically LAC:33:III:509.A.1) excludes all Federally recognized Indian lands from the provisions of this regulation. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated by reference and made a part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

Subpart GG—New Mexico

6. Section 52.1620 is amended by adding paragraph (c)(46) to read as follows:

§ 52.1620 Identification of plan.

(c) * * *

(46) Revisions to the New Mexico State Implementation Plan for Air Quality Control Regulation (AQCR) 707—Permits, Prevention of Significant Deterioration (PSD) (for PSD nitrogen dioxide increments) Sections O(4), P(7) through P(41), Table 4, and Table 5, as adopted by the New Mexico Environmental Improvement Board (NMEIB) on March 9, 1990, and filed with State Records Center on May 29, 1990, were submitted by the Governor on July 16, 1990.

(i) Incorporation by reference.
(A) AQCR 707—Permits, Prevention of Significant Deterioration (PSD) sections O(4), P(7) through P(41), Table 4, and Table 5, as filed with State Records Center on May 29, 1990.

(ii) Additional Material—None.
7. Section 52.1634 is revised to read as follows:

§ 52.1634 Significant deterioration of air quality.

(a) The plan submitted by the Governor of New Mexico on February 21, 1984 (as adopted by the New Mexico Environmental Improvement Board (NMEIB) on January 13, 1984), August 19, 1988 (as revised and adopted by the NMEIB on July 8, 1988), and July 16, 1990 (as revised and adopted by the NMEIB on March 9, 1990), Air Quality Control Regulation 707—Permits, Prevention of Significant Deterioration (PSD) and its Supplemental document, is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality.

(b) The requirements of section 160 through 165 of the Clean Air Act are not met for Federally designated Indian lands. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated by reference and made a

part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

(c) The plan submitted by the Governor in (a) for Prevention of Significant Deterioration is not applicable to Bernalillo County. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated by reference and made a part of the applicable implementation plan and are applicable to sources located within the boundaries of Bernalillo County (including the City of Albuquerque).

[FR Doc. 91-10271 Filed 5-1-91; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

Approval and Promulgation of Implementation Plans North Carolina; Forsyth County, Western North Carolina, and Mecklenburg County Regulations

[NC-045; FRL-3917-6]

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of North Carolina has four federally-funded air pollution control agencies. One of these is a State agency and the other three are local programs which operate in major metropolitan areas of the State. All four agencies have been authorized by the North Carolina Environmental Management Commission (EMC) to run independent and comprehensive air pollution programs in their respective jurisdictions. Each local agency is responsible for adopting and enforcing its own regulations, as well as, for issuing source permits. The regulations adopted by the local programs are required (by State law) to be comparable and consistent with those adopted by the State agency. To date, EPA has approved only the State's version of the North Carolina air quality regulations. Since EPA requires local programs implementing a SIP to have the legal authority to do so, and since the local programs can only enforce the rules they adopt, the State submitted the local programs' rules to EPA for approval as part of the SIP on July 14, 1990. Today's action in no way negates any SIP calls or overrides any SIP deficiencies.

DATES: This action will be effective July 1, 1991 unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed timely notice

will be published in the Federal Register.

ADDRESSES: Comments may be submitted to Rosalyn D. Hughes at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency,
Region IV, Air Programs Branch, 345
Courtland Street NE., Atlanta, Georgia
30385

Air Quality Section, Division of
Environmental Management, North
Carolina Department of Natural
Resources and Community
Development, Archdale Building, 512
North Salisbury Street, Raleigh, North
Carolina 27611

Forsyth County Environmental Affairs
Department, 537 North Spruce Street,
Winston-Salem, North Carolina 27101
Mecklenburg County Department of
Environmental Protection, 1200 Blythe
Boulevard, Charlotte, North Carolina
28203

Western North Carolina Regional Air
Pollution, Control Agency, Buncombe
County Courthouse, Asheville, North
Carolina 28801-3569

Public Information Reference Unit,
Environmental Protection Agency, 401
M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
Rosalyn D. Hughes of the EPA Region IV
Air Programs Branch at the above
address and telephone (404) 347-2864 or
FTS 257-2864.

SUPPLEMENTARY INFORMATION: The State of North Carolina has four federally-funded air pollution control agencies. One of these is a State agency and the other three are local programs which operate in major metropolitan areas of the State. All four agencies have been authorized by the North Carolina Environmental Management Commission (EMC) to run independent and comprehensive air pollution programs in their respective jurisdiction. Each local agency is responsible for adopting and enforcing its own regulations, as well as for issuing source permits. The regulations adopted by the local programs are required (by State law) to be comparable and consistent with those adopted by the State agency. To date, EPA has approved only the State's version of the North Carolina air quality regulations. Since EPA requires local programs implementing a SIP to have the legal authority to do so, and since the local programs can only enforce the rules they adopt, the State submitted the local programs' rules to EPA for approval as part of the SIP. Deficiencies in the North Carolina

regulations that are in the local regulations must be addressed at another time.

On June 14, 1990, the North Carolina Environmental Management Commission (EMC) submitted regulations for Forsyth County, Mecklenburg County, and Western North Carolina as part of the North Carolina SIP to EPA for review and approval. EPA found the Forsyth County rules and regulations to be equivalent to but not less stringent than the federally approved title 15 of the North Carolina Administrative Code (State regulations for North Carolina).

The rules and regulations are being approved so that they become federally-enforceable and now are incorporated into the State Implementation Plan for the State of North Carolina. Forsyth County will follow the air quality control strategy contained in the existing North Carolina SIP. This strategy has been successful in Forsyth County as that area of the State (Winston-Salem) is classified as attainment for all National Ambient Air Quality Standards (NAAQS). However, on November 7, 1989, the Winston-Salem area received an ozone SIP call.

The Western North Carolina portion of the SIP contains regulations which apply to sources in Buncombe and Haywood Counties (Asheville). All of the rules are consistent with the federally-approved SIP for the State of North Carolina and the requirements of the Clean Air Act, except for Rule 1-139, Utility Boilers. EPA disapproved the comparable State regulation that dealt with utility boilers in Buncombe and Haywood Counties on June 16, 1988 (53 FR 22485); therefore, the Western North Carolina Rule 1-139 is not approvable. Western North Carolina is also relying on the State's existing air quality control strategy. This is acceptable because Buncombe and Haywood counties are currently attaining all NAAQS.

The Mecklenburg County rules and regulations are consistent with the federally-approved SIP for the State of North Carolina (Title 15 North Carolina Administrative Code) and the Clean Air Act. Mecklenburg County is, like the other agencies in North Carolina, relying on the State's existing air quality control strategy. This is acceptable because Mecklenburg County is currently attaining for all the NAAQS, except ozone. A SIP call which addressed ozone nonattainment was issued in May 1988.

Several of the local programs' regulations require additional explanation. Each agency has a regulation entitled, Sulfur Dioxide Emissions From Fuel Burning Installations. This regulation is

equivalent to the federally approved State regulations, but it does not apply to all the sources in the local programs' jurisdiction. Three sources, R.J. Reynolds-Whitaker Park in Forsyth County and BASF (formerly American Enka) and Dayco Southern in Western North Carolina, are not affected by this regulation. Those sources were on a list of sources (47 FR 54934) which were required to remain at 1.6 lb SO₂/million BTU (mmBTU) unless they could demonstrate that the (NAAQS) would be protected at the higher limit (2.3 lb SO₂/mmBTU). The regulation, Sulfur Dioxide Emissions From Fuel Burning Installations, is approvable for all SO₂ sources in Mecklenburg County, Forsyth County, and Western North Carolina, except R.J. Reynolds-Whitaker Park, BASF (formerly American Enka), and Dayco Southern. R.J. Reynolds-Whitaker Park, BASF (formerly American Enka), and Dayco Southern will be subject to the 1.6 lb SO₂/mmBTU limit previously approved in the SIP.

Each agency has regulations entitled New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. These regulations are technology and health/risk based standards, respectively, rather than emission limits relied upon to attain and maintain the NAAQS which are promulgated under sections 111 and 112 of the Clean Air Act. Since these regulations are not required under section 110 of the Clean Air Act, State Implementation Plans, EPA will not take action on Forsyth County regulations 3-158 and 3-159, Western North Carolina regulations 1-158 and 1-159, and Mecklenburg County regulations 2.0524 and 2.0525.

The local agencies have adopted regulations which were not required under section 110 of the Clean Air Act, but under section 111(d). The local agencies do not have any sources in their jurisdiction to which these regulations apply. Therefore, no action will be taken on the following regulations:

Emissions From Plants Producing Sulfuric Acid

Forsyth County Regulation 3-152(2)
Western North Carolina Regulation 1-152(2)

Total Reduced Sulfur From Kraft Pulp Mills

Forsyth County Regulation 3-155
Mecklenburg County Regulation 2.0528

Particulate Matter and Reduced Sulfur Emission From Pulp and Paper Mills

Western North Carolina 1-144

Fluoride Emissions From Primary Aluminum Reduction Plants

Forsyth County Regulation 3-160
Mecklenburg County Regulation 2.0529

Also, EPA will not take any action on the following regulations because they are not federally approved for the State:

Control of Mercury Emissions

Forsyth County Regulation 3-169
Mecklenburg County Regulation 2.0537

Fluoride Emissions From Phosphate Fertilizer Industry

Mecklenburg County Regulation 2.0534

The ozone SIP calls for Forsyth County in November 1989 and for Mecklenburg County in May 1988 do not affect the approvability of those local programs' regulations that this notice addresses. Also the approval of those local programs' regulations does not negate the SIP calls.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective July 1, 1991.

Final Action

EPA is approving the material submitted on June 14, 1990 as the Forsyth County portion of the North Carolina SIP, except 3-152(2), 3-155, 3-158, 3-159, 3-160, and 3-169; the Western North Carolina portion of the North Carolina SIP, except 1-137(g), 1-139, 1-144 (a)-(i), 1-152(2), 1-158 and 1-159; and the Mecklenburg County portion of the North Carolina SIP, except 2.0524, 2.0525, 2.0528, 2.0529, 2.0534, and 2.0537.

To the extent EPA has issued any SIP calls to the local programs with respect to the adequacy of any rules subject to this action, EPA will continue to require the local programs to correct any such rule deficiencies despite EPA's approval of this submittal.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by July 1, 1991. This action may not be challenged later in proceedings to enforce its requirements.

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

The Agency has reviewed this request for revisions of the federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. This Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting, recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the *Federal Register* on July 1, 1982.

Dated: March 18, 1991.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of Chapter I, title 40, Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(65) to read as follows:

§ 52.1770 Identification of plan.

* * *

(c) * * *

(65) Revisions to the North Carolina SIP which include the Forsyth County, Western North Carolina and Mecklenburg County regulations which were submitted on June 14, 1990.

(i) Incorporation by reference.

(A) The entire set of Forsyth County Air Quality Control Code regulations effective December 19, 1988, except for section 3-152(2), 3-155, 3-158, 3-159, 3-160 and 3-169.

(B) The entire set of Western North Carolina regulations effective March 13, 1985 and November 9, 1988, except for Sections 1-137(g), 1-139, 1-144, 1-152(2), 1-158 and 1-159.

(C) The entire set of Mecklenburg County regulations effective April 3, 1989, except for Sections 2.0517(2), 2.0524, 2.0525, 2.0528, 2.0529, 2.0534, 2.0537.

(ii) Additional material—none.

[FR Doc. 91-10268 Filed 5-1-91; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 900941-0342]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restriction, and request for comments.

SUMMARY: NOAA announces reductions in the trip limits for widow and yellowtail rockfish caught in the groundfish fishery off Washington, Oregon, and California. These actions are authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan. The trip limits are designed to keep landings within the harvest guidelines for these species while extending the fishery as long as possible during the year and minimizing discards.

EFFECTIVE DATE: April 24, 1991 through December 31, 1991, unless modified, superseded, or rescinded. Comments will be accepted through May 17, 1991.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) 206-526-6140; or Rodney R. McInnis (Southwest Region, NMFS) 213-514-6199.

SUPPLEMENTARY INFORMATION: Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on November 15, 1990 and final implementing regulations

were published at 56 FR 736 on January 8, 1991 (correction 56 FR 13365), April 1, 1991). The amended FMP provides for rapid changes to specific management measures if they first have been designated as "routine." This designation means that the identified management measure may be implemented and adjusted for a specified species or species groups and gear type after consideration at a single meeting of the Pacific Fishery Management Council (Council) as long as the purpose of the limit is the same as originally established when the measure was designated as routine. Trip landing and frequency limits for the *Sebastes* complex (including yellowtail rockfish), and widow rockfish are among those management measures designated as routine (56 FR 736, January 8, 1991).

At its April 1991 meeting, the Council recommended the following adjustments to the routine management measures for yellowtail and widow rockfish. The Secretary of Commerce (Secretary) concurs in these recommendations and announces the following changes to the trip limits announced at 56 FR 645 (January 8, 1991).

Widow Rockfish

The 1991 harvest guideline for widow rockfish is 7,000 metric tons (mt), about 29 percent lower than the 1990 quota of 9,800-10,000 mt. The landed catch through March 16, 1991, is 2,420 mt. If the average 1989-90 catch rates occur during April-September 1991, then the 7,000 mt level will be reached on August 30. If the fishery were to continue after August 30 at 1990 catch rates, the total catch for the year would be 10,600 mt if no further restrictions are applied. The Council recommended that the current weekly trip limit of 10,000 pounds (which allows one landing of widow rockfish above 3,000 pounds per week) be lowered to 3,000 pounds (with no limit on the number of landings) on the date that the Council's Groundfish Management Team (GMT) projects necessary to extend the fishery as long as possible in 1991. Because there is no limit on the number of landings that may be made in a one-week period, the biweekly trip limit option also will be removed. The effective date for this 3,000 pounds per week trip limit will be announced in the *Federal Register* when more landings data are available. Until then, the provisions regarding management of widow rockfish announced at 56 FR 645, January 8, 1991, remain in effect.